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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/054,825      | 01/23/2002  | Kazuaki Onishi       | SHC0167             | 7787             |

7590 05/19/2004  
Michael S Gzybowski  
Butzel Long  
350 South Main Street  
Suite 300  
Ann Arbor, MI 48104

EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/054,825

Applicant(s)

ONISHI ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/1/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Specification***

Claim 6 is objected to because of the following informalities: A first liquid absorbent core is disclosed when previously a liquid absorbent first core had been disclosed. Appropriate correction is suggested.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Chmielewski et al. (6,699,228).

Chmielewski discloses a diaper, as shown in figure 1, comprising a primary absorbent batt assembly 34, a pair of barrier cuffs 501, and a supplementary absorbent batt assembly 702. The primary absorbent batt assembly 34 has a body facing surface sheet 30, a garment facing surface sheet 32, a front waist region 22, a rear waist region 24, and a crotch region 26. The barrier cuffs 501 have a proximal edge portion 304 and a distal edge portion 503, and extend along transversely opposite sides of the primary absorbent batt assembly 34 so as to rise up from the body facing surface, as shown in figure 2. The supplementary absorbent batt assembly 702 has a body facing surface

704 and an opposite surface 706, as shown in figure 2. The supplementary absorbent batt assembly 702 also has a proximal end portion 724 and distal end portion 728, as shown in figure 1, the proximal end portion 724 lying the front waist region 22. The distal end portion 728 is spaced apart upwardly from the primary absorbent batt assembly 34 to define a pocket opening 80 when under tension from the barrier cuffs 501, as shown in figure 3.

With respect to claim 2, the primary absorbent batt assembly comprises a liquid pervious topsheet 30, a liquid impervious backsheet 32, and a liquid absorbent first core 34, as shown in figure 2.

With respect to claim 3, the supplementary absorbent batt assembly comprises a liquid absorbent second core 702 and a liquid pervious sheet 704, as shown in figure 2.

With respect to claim 4, the barrier cuffs 501 include elastic members 504, as shown in figure 2.

With respect to claim 5, the distal end portions 503 of the barrier cuffs 501 are positioned inwardly of the proximal end portions 304, as shown in figure 2.

With respect to claim 6, a pair of gasket cuffs 302 extend outwardly from the transverse opposite side edges of the liquid absorbent first core 34, as shown in figure 2.

With respect to claim 7, the gasket cuffs include elastic members 36, as shown in figure 2.

With respect to claim 8, the proximal ends 304 of the barreir cuffs 501 are attached to the gasket cuffs 302.

With respect to claim 11, the supplementary absorbent batt assembly 702 comprises a higher percentage of superabsorbent material than the primary absorbent batt assembly 34, as disclosed in column 9, lines 22-23, and column 10, lines 54-59, and therefore has a higher absorbing capacity.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chmielewski et al. (6,699,228) as applied to claim 1 above, and further in view of Onishi (JP1996-196565A).

Chmielewski discloses all aspects of the claimed invention with the exception of a second supplementary absorbent batt assembly. Onishi discloses a diaper having a supplementary absorbent batt assembly located in the front waist region, as shown in figure 1. Onishi further discloses a second supplementary absorbent batt assembly located in the rear waist region and smaller than the supplementary absorbent batt assembly, the second supplementary absorbent batt assembly forming a pocket between the crotch region and the rear waist region, as shown in figure 2. The second supplementary absorbent batt assembly provides a way to trap waste and minimize contact of the waste with the wearer of the diaper, as described in paragraph 16. It would therefore be obvious to one of ordinary skill in the art at the time of invention to

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construct the diaper of Chmielewski with a second supplementary absorbent batt assembly, as taught by Onishi, to trap waste and minimize contact of the waste with the wearer of the diaper.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 6,425,889; 6,114,597; and 5,897,544 pertain to absorbent articles having supplementary absorbent batt assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOHN J. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

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May 11, 2004